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WTO AUTHORIZES U.S. RETALIATION

Today the WTO Dispute Settlement Body (DSB) formally authorized the United States to suspend concessions covering trade in an amount of \$191.4 million because of the injury to U.S. economic interests caused by the European Union's (EU) failure to implement a WTO-consistent banana regime. The United States Trade Representative (USTR) published the list of products on which 100 percent *ad valorem* duties apply in the *Federal Register* today. A WTO Arbitral award issued on April 6 paved the way for the final DSB action today.

"This action validates what the United States has been saying for the past year – the EU has not complied with its obligations and this failure is damaging to the United States. Our action today redresses the longstanding imbalance in WTO rights and obligations and sends a clear message to the EU that protectionism has a price. We urge the EU to comply fully with the many WTO rulings against it on this issue," said the United States Trade Representative Charlene Barshefsky.

Background

On April 6, 1999, the WTO Arbitrators concluded that the United States is being harmed by the EC's current banana regime (put into effect in January 1999) in the amount of \$191.4 million annually and could accordingly suspend EC trade concessions equivalent to that amount. In drawing their conclusions, the Arbitrators reiterated key sections of the 1996-97 WTO Panel and Appellate Body reports to demonstrate how the EC's current banana regime is continuing the same discrimination against the United States and Latin America found in the previous EC banana regime (in effect between 1993 and 1998) in violation of the General Agreement on Tariffs and Trade (GATT) and General Agreement on Trade in Services (GATS). Their findings regarding continuing discrimination are virtually the same as those found in the April 6, 1999, Panel Report in the separate dispute settlement proceeding brought by Ecuador.

On procedures, the Arbitrators explicitly rejected the EC position that the United States had to undergo additional dispute settlement procedures under Article 21.5 of the Dispute Settlement

Understanding, as had Ecuador, before requesting WTO authorization to retaliate against EC exports. The Arbitrators observed that countries that did not want to suspend concessions could make use of Article 21.5 procedures; those that wished to suspend concessions could use Article 22.6 procedures. The Arbitrators considered that their task of determining the amount of damage to the United States required them to examine the WTO-consistency of the EC regime in effect since January 1999 and that this approach achieved the multilateral goals of the WTO rules.

Under WTO rules, the increased duties may stay in effect until the banana dispute is resolved or the EC can show that it has adopted a WTO-consistent banana regime.

A more complete summary of the April WTO rulings against the EU's banana regime can be found on the USTR Web page.